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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,159	10/17/2000	Oleg B. Rashkovskiy	INTL-0472-US (P10019)	2744

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EXAMINER
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VU, NGOC K

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/690,159

Applicant(s)

RASHKOVSKIY, OLEG B.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 44-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments with respect to claims 44-71 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 53 and 63 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 53 and 63 are indefinite because there is no antecedent basis for the limitation "said encrypted cache" in line 3. For purpose of examining, the examiner considers this limitation as "said cache".

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 44-50, 54-62, 64-71 are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond et al. (US 6,698,020 B1).

Regarding **claim 44**, Zigmond discloses a method comprising:

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receiving content (video programming feed) and two advertisements (a plurality of advertisements) on a content receiver (80) (see figure 5; col. 7, lines 14-25; col. 10, lines 18-22);

storing the content and advertisements in a cache (86) (storing the plurality of advertisements and the video programming feed in storage 86 - see col. 15, lines 26-34; col. 18, lines 8-11); and

selecting one of the advertisements based on a content characteristic specified by an advertisement provider (the selecting one of the advertisements based on advertisement parameters specified by an advertisement provider – see col. 8, lines 22-28; col. 11, lines 37-42; col. 12, lines 15-18 and 33-38; col. 17, lines 24-25), and

finding a place to insert the selected advertisement in the cached content before the cached content continues to be output for display (when switching decision unit 88 identifies the presence of a trigger, it prompts video switch 90 to interrupt display of the video programming feed and to insert in its place the selected advertisement from the storage 86 – see col. 17, lines 24-32 and col. 15, lines 57-65).

Regarding **claim 54**, Zigmond discloses an article comprising a machine-readable storage medium containing instruction (see col. 6, lines 48-61) that, if executed enable a system to:

receive content (video programming feed) and two advertisements (a plurality of advertisements) on a content receiver (80) (see figure 5; col. 7, lines 14-25; col. 10, lines 18-22);

store the content and advertisements in a cache (86) (storing the plurality of advertisements and the video programming feed in storage 86 - see col. 15, lines 26-34; col. 18, lines 8-11); and

select an advertisement based on a content characteristic specified by an advertisement provider (the selecting one of the advertisements based on advertisement parameters specified by an advertisement provider – see col. 8, lines 22-28; col. 11, lines 37-42; col. 12, lines 15-18 and 33-38; col. 17, lines 24-25), and

find a place to insert the selected advertisement in the cached content before the cached content continues to be output for display (when switching decision unit 88 identifies the presence of a trigger, it prompts video switch 90 to interrupt display of the video programming feed and to insert in its place the selected advertisement from the storage 86 – see col. 17, lines 24-32 and col. 15, lines 57-65).

Regarding **claims 45 and 55**, Zigmond discloses that an advertiser may specify a particular advertisement to be shown during a particular program is broadcast. The particular advertisement is selected according to a particular program being viewed based on content rating (see col. 12, lines 15-18 and 47-51; col. 13, lines 48-51).

Regarding **claims 46 and 56**, Zigmond discloses comparing the content ratings of the advertisement specified by the advertiser to content rating of video programming being viewed (see col. 12, lines 15-18; col. 13, lines 48-57).

Regarding **claims 47 and 57**, Zigmond discloses selecting an advertising based on subject matter specified by the advertisement provider (see col. 12, lines 15-18 and 60-62).

Regarding **claims 48-49 and 58-59**, Zigmond discloses the subject matter of the television program may be identified using the descriptions in the electronic program database 81, by monitoring the contents of the closed captioning information that is broadcast with the video and audio portions of the television program (see col. 13, lines 1-6).

Regarding **claims 50 and 60**, Zigmond discloses storing a variety of content types, e.g., content of the video programming, viewer preference, geographical location, Internet and

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advertisements...etc, and allowing any one of the content types, e.g., advertisement, to be selected for play at any time (see col. 10, lines 18-22; col. 11, lines 18-30).

Regarding claim **61**, Zigmond discloses that the switching decision unit 88 that monitors a trigger to identify the triggering event. The means for detecting a triggering event may instead include computer-executable instructions carried on a computer-readable medium for identifying triggering event. This triggering event indicates when the video programming feed is able to be interrupted (see col. 15, lines 35-44 and 57-65).

Regarding claim **62**, Zigmond discloses receiving trigger signal over a trigger delivery channel (see col. 15, lines 45-47).

Regarding claim **64**, Zigmond discloses a system comprising:

a receiver (80) to receive content (video programming feed) and two advertisements (a plurality of advertisements),

a cache (86), coupled to said receiver, to store the content and the advertisements (see col. 15, lines 26-34; col. 18, lines 8-11); and

a shell (90), in said receiver (see figure 5), to select one of advertisements and to find to a place to insert the selected advertisement in the cached content before the cached content continues to be output for display (when switching decision unit 88 identifies the presence of a trigger, it prompts video switch 90 to interrupt display of the video programming feed and to insert in its place the selected advertisement from the storage 86 – see col. 17, lines 24-32 and col. 15, lines 57-65), said selection based on a content characteristic specified by an advertisement provider (the selecting one of the advertisements based on advertisement parameters specified by an advertisement provider – see col. 8, lines 22-28; col. 11, lines 37-42; col. 12, lines 15-18 and 33-38; col. 17, lines 24-25).

Regarding **claim 65**, Zigmond discloses the system is a television receiver (see col. 10, lines 22-24; col. 7, lines 4-12).

Regarding **claim 66**, Zigmond discloses receiving trigger signal over a trigger delivery channel to insert the selected advertisement (see col. 15, lines 45-61).

Regarding **claim 67**, Zigmond discloses a device (88) that parses content from trigger event for inserting a selected advertisement (see col. 15, lines 37-39).

Regarding **claim 68**, Zigmond discloses the storage 86 may comprise computer readable medium capable for filtering advertisements and storing the selected advertisements and video programming feed (see col. 15, lines 17-34).

Regarding **claim 69**, Zigmond discloses the means for detecting a trigger event may include computer-executable instructions carried on a computer-readable medium for analyzing the structure of a video programming feed and identifying a virtual triggering event. The trigger signal appears in the video programming feed, when unit 88 identifies the presence of a triggering signal, it prompts switch 90 to interrupt display of the video programming feed and to insert in its place the selected advertisement from advertisement repository 86 (see col. 15, lines 35-43 and 56-61).

Regarding **claim 70**, Zigmond discloses that the ad selection criteria (83) could be used to select advertisement based on content rating that is specified by an advertisement provider (see col. 13, lines 48-51; col. 12, lines 15-18; col. 11, lines 31-43).

Regarding **claim 71**, Zigmond discloses that the ad selection criteria (83) could be used to select advertisement based on subject matter that is specified by the advertisement provider (see col. 11, lines 31-43; col. 12, line 60 to col. 13, line 6).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (US 6,698,020 B1) in view of Arai (US 6,532,591 A).

Regarding **claim 51**, Zigmond discloses receiving trigger signal, and forwarding the trigger signal to a shell (90), the shell (90) monitoring for triggering event that determines when the video programming is able to be interrupted (see col. 15, lines 57-61). Zigmond discloses the trigger signal is transmitted with the video programming feed. The triggering event may be transmitted over a trigger delivery channel (see col. 15, lines 37-39 and 45-52). Zigmond does not disclose receiving instructions at a program guide. However, Arai discloses extracting software program from the received program guide at a receiving unit (see col. 2, lines 25-38; col. 19, lines 48-64; col. 22, line 61 to col. 23, line 17). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Zigmond by transmitting software program with program guide to user's terminal without requiring a special frequency band used only for the software product as disclosed by Arai in order to reduce cost.

Regarding **claim 52**, Zigmond discloses receiving trigger signal over a trigger delivery channel (see col. 15, lines 45-47).

8. Claims 53 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (US 6,698,020 B1) in view of Mendelson et al. (US 3,594,732 A).



Regarding **claims 53 and 63**, Zigmond discloses storing the content and the advertisement in a cache (86) (see col. 15, lines 26-34; col. 18, lines 8-11 and figure 5).

Zigmond does not teach executing instructions enable distributing a particular content item to a variety of locations on the cached. Mendelson teaches that instructions are provided which cause contents in memory locations to be relocated for storage into other memory locations (see col. 28, lines 26-53). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Zigmond by executing instructions which cause the contents to be relocated for storage into other memory locations for purpose of securing data or contents in the memory.

#### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 571-272-7306. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Ngoc K. Vu', with a long horizontal flourish extending to the right.

Ngoc K. Vu  
Primary Examiner  
Art Unit 2611

May 27, 2005